

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

RANDY STARKEY,	)	
	)	
Plaintiff	)	
	)	No. 3:10-0921
v.	)	Judge Campbell/Brown
	)	
DAVID L. RICHARDS, et al.,	)	
	)	
Defendants	)	

**O R D E R**

The Defendants C. Bennett Harrison, Jr., J. Matthew Blackburn, and Cornelius and Collins, LLP have a filed a motion to dismiss in this matter (Docket Entry 3). The Plaintiff has filed a response (Docket Entry 8), which is not particularly helpful. The response simply states that he objects to the motion to dismiss and files an amended complaint.

It appears that under Rule 15(a)(1)(B) the Plaintiff may amend his pleading once as a matter of Court, provided it is filed within 21 days after the service of the motion under Rule 12(b). The **Clerk** will therefore file the amended complaint. Unfortunately, the Plaintiff gives no indication of how the amended complaint cures the defects alleged in the motion to dismiss.

Service of process does not appear to have been obtained on any other Defendants in this matter. The Plaintiff is reminded that under Rule 4 of the Federal Rules of Civil Procedure he must obtain service of process within 120 days of the filing of his lawsuit or claims against unserved Defendants may be dismissed for failure to prosecute.

From an initial reading of the pleadings in this matter, the Magistrate Judge has his doubts that this Court has jurisdiction under the Rooker-Feldman doctrine to review litigation in Idaho that the Plaintiff apparently actively participated in. A review of that state court litigation should normally be undertaken in that state. *See Lawrence v. Welch*, 531 F.3d 364 (6<sup>th</sup> Cir. 1008).

In view of these questions, this matter is set for a hearing on **Monday, December 20, 2010, at 10:00 a.m. CST**. The parties should be prepared to argue why this court has jurisdiction under the guidelines set out in the *Lawrence* case.

It is so **ORDERED**.

/s/  
JOE B. BROWN  
United States Magistrate Judge